



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

SEP 19 2005

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard L. Dickinson
Manager of Environmental Sciences
Tate & Lyle North America
2200 E. Eldorado Street
Decatur, Illinois 62525

Re: Notice of Violation
Tate & Lyle North America
Lafayette, Indiana
Decatur, Illinois

Dear Mr. Dickinson:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV) to Tate & Lyle North America (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating Subtitle I, Part C of the Act, the Illinois State Implementation Plan and the Indiana State Implementation Plan at your facilities located at 2200 East Eldorado Street, Decatur, Illinois, and 3300 U.S. 52 South, Lafayette, Indiana, respectively.

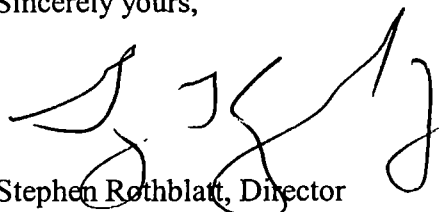
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial, civil, or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The U.S. EPA contacts in this matter are Erik Hardin and Sara Dauk. You may call either of them at (312) 886-2402 or (312) 886-0243, respectively, to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,



A handwritten signature in black ink, appearing to read 'S. Rothblatt', is written over the typed name.

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Julie Armitage, Section Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Tate & Lyle North America)	NOTICE OF VIOLATION
Decatur, Illinois and)	
Lafayette, Indiana)	EPA-5-05-IL-21
)	
Proceedings Pursuant to)	
Section 113(a)(1) of the)	
Clean Air Act, 42 U.S.C.)	
§ 7413(a)(1))	

NOTICE OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation (NOV) under Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1). U.S. EPA finds that Tate & Lyle North America (TLNA), at its facilities located at 2200 East Eldorado Street, Decatur, Illinois, and 3300 U.S. 52 South, Lafayette, Indiana, is violating Subtitle I, Part C of the Act, the Illinois State Implementation Plan (SIP) and the Indiana SIP as follows:

Statutory and Regulatory Background

Prevention of Significant Deterioration

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration (PSD) of air quality standards pursuant to Subtitle I, Part C of the Act. These regulations were revised on August 1, 1980 (45 Fed. Reg. 52676), and are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. Subchapter I, Part C of the Act, and the PSD regulations implementing Part C at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is major in that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has either achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant, or has been designated as unclassifiable for that pollutant. Part C at 40 C.F.R. § 52.21(j) further requires, among other things, that a source subject to these PSD regulations shall install Best Available Control Technology (BACT) to control the emissions of each regulated pollutant.

3. On April 7, 1980, U.S. EPA delegated to the Indiana Department of Environmental Management (IDEM) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
4. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP. 40 C.F.R. § 52.793 (45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584).
5. On February 10, 1986, U.S. EPA approved Indiana SIP Rule 326 IAC 8, containing requirements for sources of VOC emissions, as part of the Indiana SIP. 51 Fed. Reg. 4912.
6. 326 IAC 8-1-6 states that “new facilities (as of January 1, 1980), which have potential emissions of 22.7 megagrams (25 tons) or more per year, located anywhere in the state, which are not otherwise regulated by other provisions of this article (326 IAC 8), shall reduce VOC emissions using best available control technology (BACT).”
7. On March 3, 2003, U.S. EPA conditionally approved Indiana’s PSD SIP, 326 IAC Rule 2-2. 68 Fed. Reg. 9892.
8. On April 7, 1980, U.S. EPA delegated to the Illinois Environmental Protection Agency (IEPA) authority to review and process PSD permit applications and to implement the PSD program. 46 Fed. Reg. 9584.
9. On August 7, 1980, U.S. EPA incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) into the Illinois SIP. 45 Fed. Reg. 52741, as amended at 46 Fed. Reg. 9584, codified at 40 C.F.R. § 52.738.
10. 40 C.F.R. § 52.21(b)(1)(i)(b) defines a “major stationary source” as any stationary source which emits, or has the potential to emit, 250 tons per year (tpy) or more of any air pollutant subject to regulation under the Act.
11. 40 C.F.R. § 52.21(b)(2)(i) defines a “major modification” as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.
12. 40 C.F.R. § 52.21(b)(3)(i) defines “net emissions increase” as “the amount by which the sum of the following exceeds zero:
 - (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.”

13. 40 C.F.R. § 52.21(b)(21) defines “actual emissions” as of a particular date equal to the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations.
14. 40 C.F.R. § 52.21(b)(23)(i), in relevant part, defines “significant”, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, as a rate of emissions that would equal or exceed 100 tpy for carbon monoxide and 40 tpy for VOC.

TLNA’s Indiana Facility

15. TLNA owns and operates a wet corn mill at 3300 U.S. 52 South in Lafayette, Indiana (the Indiana facility).
16. The Indiana facility is located in Tippecanoe County, Indiana, an area designated as unclassifiable/attainment for the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) and ozone. 40 C.F.R. § 81.315.
17. Prior to 1980 and continuing through the present, the Indiana facility emitted or had the potential to emit 250 tons per year or more of a pollutant regulated under the Act, and is a “major stationary source” as defined at 40 C.F.R. § 52.21(b)(1)(i)(b).
18. At various times since 1980, TLNA commenced and completed construction and/or modification of at least five corn byproducts dryers at the Indiana facility, including dryers designated unit numbers LA-8, LA-15, LA-17A, LA-47, LA-53, and LA-60.
19. The construction and/or modification of the five corn byproducts dryers LA-8, LA-15, LA-17A, LA-47, LA-53, and LA-60, resulted in significant net emissions increases of VOC and/or CO.
20. Since 1980 and continuing through the present, VOCs and CO have been emitted from the Indiana facility.
21. VOC testing done at the Indiana facility in 1996, 1999, and 2003 did not accurately characterize and/or quantify VOC emissions from the facility.

TLNA's Illinois Facility

22. TLNA owns and operates a wet corn mill at 2200 East Eldorado Street in Decatur, Illinois (the Illinois facility).
23. The Illinois facility is located in Macon County, Illinois, an area designated as unclassifiable/attainment for the National Ambient Air Quality Standards (NAAQS) for CO and ozone. 40 C.F.R. § 81.314.
24. Prior to 1995 and continuing through the present, the Illinois facility emitted or had the potential to emit 250 tons per year or more of a pollutant regulated under the Act, and is a "major stationary source" as defined at 40 C.F.R. § 52.21(b)(1)(i)(b).
25. At various times since 1995, TLNA commenced and completed construction of at least four corn byproducts dryers, including dryers designated unit numbers 9A-01, 9A-02, 9A-03, 9A-04, 14-01.
26. The construction of the five corn byproducts dryers 9A-01, 9A-02, 9A-03, 9A-04, and 14-01, resulted in significant net emissions increases of VOC and/or CO.
27. VOC testing done at the Illinois facility in 2001 did not accurately characterize and quantify VOC emissions from the facility.

Violations

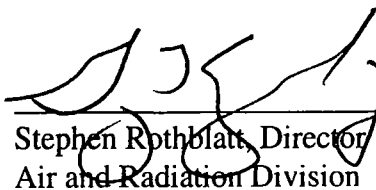
28. The following chart summarizes the violations that have occurred and continue to occur at the Indiana and Illinois facilities.

FACILITY	FIRST YEAR OF VIOLATION	DESCRIPTION OF UNITS CONSTRUCTED OR MODIFIED	REGULATORY/ STATUTORY CITATIONS	POLLUTANTS
Decatur, IL wet corn mill	1995	Primary feed dryer constructed (9A-01)	40 C.F.R. § 52.21 and 35 IAC Part 203	VOCs
	1995	Primary feed dryer constructed (9A-02)	" "	" "

	1995	Secondary feed dryer constructed (9A-03)	" "	" "
	1995	Secondary feed dryer constructed (9A-04)	" "	" "
	2001	Gluten meal dryer constructed (14-01)	" "	VOCs and CO
Layfayette South Plant, IN wet corn mill	1980	GR dryer constructed (LA-47)	40 C.F.R. § 52.21 and 326 IAC 2-2	VOCs and/or CO
	1980	Fiber pre-dryer modified (LA-8)	" "	" "
	1980	DSLDC dryer modified (LA-17A)	" "	" "
	1991	Secondary germ dryer constructed (LA-53)	" "	" "
	1995	Primary germ dryer constructed (LA-60)	" "	" "
	1995	Gluten dryer constructed (LA-15)	" "	" "

29. TLNA has operated and continues to operate the Indiana facility and the Illinois facility without obtaining the proper PSD permits and conducting a BACT analysis for the facilities, in violation of 40 C.F.R. Part 52, 42 U.S.C. 7475, and the Indiana and Illinois SIPs.

9/19/05
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation, No. EPA-5-05-IL-21 , by

Certified Mail, Return Receipt Requested, to:

Richard L. Dickinson
Manager of Environmental Sciences
Tate & Lyle North America
2200 E. Eldorado Street
Decatur, Illinois 62525


I also certify that I sent copies of the Notice of Violation by first class mail to:

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

and to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section, Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 19th day of September, 2005.


Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000602952805